

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:13-cv-00560**

**CARLOS GARCIA,**

**Plaintiff,**

**v.**

**STATE FARM FIRE AND CASUALTY  
COMPANY,**

**Defendants.**

**ORDER**

**THIS MATTER** is before the Court *sua sponte* regarding Plaintiff's Notice of Voluntary Dismissal Without Prejudice (Doc. No. 22). Federal Rule of Civil Procedure 41 provides that a voluntary dismissal without a court order may only be filed (1) before the opposing party has answered the complaint or filed a motion for summary judgment, or (2) in the form of a stipulation of dismissal signed by all the parties. Fed. R. Civ. P. 41(a)(1). Otherwise, the action may only be dismissed pursuant to an order of the court "on terms that the court considers proper." *Id.* Here, Plaintiff's Notice comes after both an answer (Doc. No. 4) and a motion for summary judgment (Doc. No. 19) have been filed. The Notice is not a stipulation signed by all the parties; thus, the Notice is procedurally improper.

**IT IS THEREFORE ORDERED** that Plaintiff's Notice of Voluntary Dismissal Without Prejudice (Doc. No. 22) is **STRICKEN**. If Plaintiff wishes to dismiss this case, he may file a stipulation signed by all parties or an appropriate motion with the Court.

**SO ORDERED.**

Signed: November 12, 2014



Graham C. Mullen  
United States District Judge

